

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Developing a Unified Intercarrier
Compensation Regime

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) CC Docket No. 01-92
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COMMENTS OF CTIA – THE WIRELESS ASSOCIATION™

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SUMMARY

More than nine years after passage of the Telecommunications Act of 1996, Congress's vision for a competitive telecommunications market with ubiquitous access to affordable, high-quality telecommunications is in jeopardy due to notoriously inefficient intercarrier compensation and universal service systems that are premised on monopoly wireline carriers providing regulated plain old telephone services ("POTS"). The current intercarrier compensation and universal service regimes are a patchwork of policies and rules that may have been individually justifiable at some point, but have over time become inconsistent, anticompetitive, and increasingly irrational and irrelevant to today's multi-dimensional telecommunications market.

Under the Commission's arcane regulations, the amount of intercarrier compensation and universal service support a carrier receives is based upon the technology it uses, the type of service it provides (local, long distance, intrastate, interstate), and the classification of the carrier (rural, non-rural, rate-of-return, price cap). The current regimes are primarily wireline-centric and are not designed to accommodate technological innovations such as wireless and Voice-over-Internet Protocol ("VoIP") services that provide valuable consumer benefits. These arbitrary jurisdictional, regulatory, and technological distinctions burden consumers with legacy costs and monopoly abuses, limiting their choices and raising rates they pay for services. Furthermore, the sheer complexity of the existing regimes creates unnecessary administrative and transaction costs that are ultimately borne by end users.

The rapid displacement of the legacy wireline circuit-switched networks by wireless and VoIP services and the snowballing growth in universal service support heighten the urgency of reform. Matching intercarrier compensation reductions with universal service funding increases,

however, as most of the other reform proposals in the record advocate, cannot bring about true reform. If the Commission responds to fundamental technology and market structure changes by merely shifting revenues from one obsolete, inefficient system to another, it will be forced to once again revisit the issue of intercarrier compensation and universal service reform sooner rather than later.

The Commission must seize the opportunity this proceeding presents and meaningfully reform the intercarrier compensation and universal service regimes to better reflect the characteristics of an emerging multi-dimensional telecommunications market that is characterized by both convergence and intermodal competition. The Commission must relieve consumers of the burdens of the current systems and craft mechanisms that enable consumers, rather than regulators or service providers, to determine the development of communications services. To accomplish this task, the Commission must reform the current intercarrier compensation and universal service systems to eliminate irrelevant regulatory distinctions, encourage and reward efficiency, and significantly reduce administrative complexity.

CTIA – The Wireless Association™ (“CTIA”) has developed a Mutually Efficient Traffic Exchange (“METE”) Proposal as a holistic approach to the reform of both regimes. The METE Proposal represents the best means of promoting economic efficiency and facilities-based competition through competitively neutral intercarrier compensation and universal service regimes that maximize benefits for consumers and minimize administrative complexity. Importantly, CTIA’s METE Proposal incorporates lessons learned from the wireless industry’s unprecedented growth over the last decade, which has occurred largely without the benefit of massive guaranteed subsidy flows, either through intercarrier compensation or universal service.

The success of the wireless model is compelling, and underscores the importance and urgency of reforming antiquated regimes that threaten to undermine this success.

Under CTIA's METE Proposal:

- Parties would be encouraged to exchange traffic under negotiated and approved interconnection agreements;
- Default intercarrier compensation and interconnection rules designed to maximize carrier incentives to voluntarily negotiate interconnection arrangements would apply:
 - Service providers would be subject to a unified compensation mechanism eliminating charges for the origination or termination of calls, covering all jurisdictional, service and technological categories of traffic, rather than the inconsistent patchwork of access and reciprocal compensation rates that exists today;
 - *Originating* service providers would assume the costs of delivering traffic to at least one of a terminating carrier's designated network "edges" in a given LATA;
 - *Terminating* providers would assume the costs of delivering traffic from their network edges to their end-user customers;
 - Service providers would continue to have a statutory right to interconnect directly or indirectly with carrier networks;
 - LECs would continue to have a statutory obligation to provide transit services to indirectly interconnecting providers, and internetwork transport and transit services would have to be provided on a forward-looking cost basis;
 - Competitively neutral rules would apply to the interconnection of SS7 networks;
 - Service providers would be prohibited from unilaterally filing access or any other tariffs for the origination or termination of any form of traffic;
- Service providers would be afforded greater flexibility to recover more of their internal network costs from their end users;
- The current hodge-podge of high-cost universal service programs would be replaced with a single, unified universal service support mechanism based on the forward-looking economic costs of the most efficient technology for a given area;
- Both incumbent and competitive carriers would continue to have nondiscriminatory access to universal service support;
- Universal service costs would be spread over the widest base of contributors;

- Interconnection and universal service would be simpler to administer and therefore more cost-effective; and
- These reforms would take effect in stages over a three-year transition period.

CTIA's METE Proposal achieves the twin goals of facilitating sustainable facilities-based competition and ensuring that consumers in rural and high-cost areas have universal, affordable access to high-quality services. A default regime eliminating call origination and termination charges, while retaining targeted universal service support and providing carriers additional end user rate flexibility, will minimize the ability of service providers to unfairly shift their internal network costs to other providers. The default interconnection rules would provide a backstop to efficient, market-based interconnection by precluding service providers from imposing onerous interconnection requirements on their competitors. Finally, unlike the existing discriminatory and wasteful high-cost universal service regime, CTIA's proposed high-cost universal service mechanism would narrowly target appropriate levels of support to those areas that require assistance.

For too long, consumers – particularly those located in high-cost areas – have been denied the full benefits of the competitive marketplace by intercarrier compensation and universal service systems that encourage and reward inefficiency and discriminate against the very cutting-edge services and technologies that the Telecommunications Act of 1996 means to promote. The Commission must not waste this opportunity to implement meaningful reforms to the intercarrier compensation and universal services systems, such as those detailed in CTIA's METE Proposal.

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CTIA – The Wireless Association™ (“CTIA”) submits these comments proposing its plan for a unified intercarrier compensation regime in response to the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding.¹ CTIA supports the goals outlined in the FNPRM for intercarrier compensation and universal service reform and offers its Mutually Efficient Traffic Exchange (“METE”) Proposal as the best means of promoting economic efficiency through a competitively neutral intercarrier compensation regime that maximizes benefits for consumers and minimizes administrative complexity.

Wireless carriers spend several billion dollars annually on access and other intercarrier charges, paid largely to their competitors, and are increasingly net payers of universal service support, also largely to their competitors. With the end of the “CALLS” price cap access charge

¹ *Developing a Unified Inter-carrier Compensation Regime*, Further Notice of Proposed Rulemaking, CC Dkt. No. 01-92, FCC 03-55 (released Mar. 3, 2005) (“FNPRM”). CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers commercial mobile radio service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

and universal service plan only weeks away,² and the current five-year rural high-cost plan set to expire next year,³ it is vital that the Commission expedite its consideration of these issues and implement as soon as possible an effective, comprehensive reform of the current intercarrier compensation and universal service regimes.

I. INTRODUCTION

The existing intercarrier compensation and universal service regimes originally were created to address the two-dimensional world established by the AT&T divestiture and the Modification of Final Judgment.⁴ Under that model, local exchange carriers (“LECs”) were considered monopoly providers whose service territories may have touched, but never overlapped one another. In today’s three-dimensional world, characterized by increasing intermodal competition and overlapping networks, the existing wireline-centric intercarrier compensation and universal service regimes have become discriminatory, anticompetitive obstacles to efficiency and consumer welfare. The existing patchwork of inconsistent intercarrier compensation rates is based on jurisdictional, regulatory and technological distinctions that, considered separately, may have been justifiable at some point, but have over time become increasingly irrational and irrelevant to today’s multi-dimensional telecommunications industry. As a result, consumers are burdened with intercarrier

² *Access Charge Reform*, 15 FCC Rcd 12962 (2000) (“*CALLS Order*”), *rev’d and remanded in part, Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001), *Access Charge Reform*, Order on Remand, 18 FCC Rcd 14976 (2003).

³ *See Federal-State Joint Board on Universal Service*, 16 FCC Rcd 11244 (2001).

⁴ *United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131 (D.D.C. 1982), *cert. denied*, 460 U.S. 1001 (1983).

compensation and universal service systems that limit their choices and unnecessarily raise the rates they pay for telecommunications services.

The accelerating economic and technological changes in the telecommunications marketplace are blurring the outmoded distinctions that characterize the existing intercarrier compensation scheme. There are now more wireless phones in the U.S. than wireline switched access lines,⁵ and Voice-over-Internet Protocol (“VoIP”) service is poised to displace a significant portion of both wireline and wireless telecommunications services. Technological innovation is leading to greater convergence among all of these and other services, including broadband, which are packaged in bundled offerings not defined by state or LATA boundaries or by service or technological categories. The wireless industry also bears the brunt of the unsustainable increases in mandatory universal service fund contributions while receiving only a small fraction of total universal service support, thereby incurring a disproportionate competitive burden. In order to bring about effective reforms, the Commission must look beyond the circuit-switched wireline LEC legacy network assumptions that have guided intercarrier compensation, interconnection and universal service policies up to now and craft rules that can accommodate an emerging multi-dimensional telecommunications market that is characterized by both convergence and intermodal competition.

⁵ According to data gathered by CTIA, the current number of wireless handsets in the United States exceeds 182 million. See CTIA Semi-Annual Wireless Industry Survey (2005), available at <http://files.ctia.org/pdf/CTIAYearend2004Survey.pdf> (“CTIA Industry Survey”). Based upon data available from the Universal Service Administrative Company, the current number of incumbent LEC working loops is approximately 173 million. See Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2005*, app. HC05 (May 2, 2005) available at <http://www.universalservice.org/overview/filings/> (“USAC 2005 3Q Report”). However, the number of wireline phone lines also has been estimated to be as low as 132 million. See Dennis Cauchon, *City, State, Cell Phone Taxes On The Rise*, USA Today, May 9, 2005, available at www.usatoday.com/money/perfi/taxes/2005-05-08-cellphone-taxes_x.htm.

Accordingly, CTIA supports the goals for intercarrier compensation and universal service reform set forth in the FNPRM: (a) promotion of economic efficiency and facilities-based competition; (b) preservation of universal service through expanded choices and reasonable rates for rural customers; (c) competitive and technological neutrality; (d) the elimination of artificial regulatory distinctions unrelated to cost; and (e) minimal regulatory intervention and enforcement and greater reliance on commercially negotiated agreements.⁶ These goals are consistent with the reform principles previously submitted by CTIA and reflect consumers' interests in unencumbered intermodal competition.⁷

Other intercarrier compensation reform proposals submitted by various parties and coalitions, on the other hand, would fail to achieve these goals and principles.⁸ With limited

⁶ FNPRM ¶¶ 31-33.

⁷ See Letter from Steve Largent, President and Chief Executive Officer, CTIA-The Wireless Association™, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Nov. 29, 2004) ("CTIA Principles").

⁸ The other significant proposals submitted in the record, most of which were identified in the FNPRM, are: the Ex Parte Brief of the Intercarrier Compensation Forum in Support of the Intercarrier Compensation and Universal Service Reform Plan ("ICF Brief") and App. A, the Intercarrier Compensation and Universal Service Reform Plan ("ICF Plan"), attached to Letter from Gary M. Epstein and Richard R. Cameron, Counsel for the Intercarrier Compensation Forum, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Oct. 5, 2004); Comprehensive Plan for Intercarrier Compensation, attached to Letter from Glenn H. Brown, Facilitator of the Expanded Portland Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Nov. 2, 2004) ("EPG Plan"); The Intercarrier Compensation Reform Plan of the Alliance for Rational Intercarrier Compensation, attached to Letter from Ken Pfister, Counsel to the Alliance for Rational Intercarrier Compensation, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Nov. 4, 2004) ("ARIC FACTS Solution"); Cost-Based Intercarrier Compensation Coalition Proposal, attached to Letter from Richard M. Rindler, Counsel to the Cost-Based Intercarrier Compensation Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Sept. 2, 2004) ("CBICC Proposal"); Updated Ex Parte of Home Telephone Company and PBT Telecom, CC Docket No. 01-92 (Nov. 2, 2004) ("Home/PBT Plan"); Outline of Western Wireless Intercarrier Compensation Plan, attached to Letter from David L. Sieradzki, Counsel to Western Wireless Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Nov. 18, 2004)

exceptions, the proposals now before the Commission are heavily weighted toward wireline interests, ignoring the development and rapid customer acceptance of IP-based and wireless services that are independent of state boundaries or jurisdictional separations. Most of these proposals tend to perpetuate the inefficiencies and inflated costs of the current intercarrier compensation regime and ignore consumer interests in lower-cost, higher-quality and innovative services provided over a variety of technology platforms.

Effective, sustainable reform of the intercarrier compensation and universal service regimes requires a shift away from a circuit-switched monopoly wireline orientation to a competitively neutral approach that does not favor any sector or technology over any others. CTIA's comprehensive METE Proposal, which represents a consensus of its members, creates such a scheme. The METE Proposal presents a set of default intercarrier compensation and interconnection rules, to be applied in the absence of a negotiated or arbitrated intercarrier agreement filed with the relevant state commission or commissions, and a universal service reform plan. In place of the existing inconsistent patchwork of access and reciprocal

("Western Wireless Plan"); Western Wireless Intercarrier Compensation Reform Plan, attached to Letter from David L. Sieradzki, Counsel to Western Wireless Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Jan. 28, 2005) ("Western Wireless PowerPoint"); NASUCA Intercarrier Compensation Proposal, attached to Letter from Philip F. McClelland, Senior Assistant Consumer Advocate, Commonwealth of Pennsylvania, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Dec. 14, 2004) ("NASUCA Principles"); National Association of Regulatory Utility Commissioners Study Committee on Intercarrier Compensation Goals for a New Intercarrier Compensation System and Intercarrier Compensation Proposal, attached as Appendices B and C, respectively, to Letter from Robert B. Nelson, Elliott G. Smith, and Ray Baum, NARUC, to Kevin Martin, Chairman, Federal Communications Commission, CC Docket No. 01-92 (May 18, 2005) ("NARUC Proposal"); U.S. Cellular White Paper, *Rural America is on the Go*, CC Docket No. 01-92 (Jan. 7, 2005) ("USCC Principles"); and Frontier Universal Telecommunications Freedom Plan, attached to Letter from Alex J. Harris, Vice President – Regulatory, Frontier to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (May 10, 2005) ("Frontier UTF Plan").

compensation rates, service providers that have not entered into mutually agreed-upon compensation and interconnection arrangements would be subject to a unified default mechanism eliminating call origination and termination charges for all jurisdictional, service and technological categories of traffic. Service providers would have the flexibility to recover their internal network costs from their end user customers and, where warranted, the reformed high-cost universal service mechanism.

In the absence of an interconnection agreement establishing a different arrangement, a neutral set of default interconnection rules would ensure that service providers could not subvert the clear preference of the Communications Act of 1934, as amended (“the Act”), for market-based solutions by imposing onerous, discriminatory and inefficient interconnection requirements on their competitors. The interconnection rules would allow non-terminating carriers to choose one of a terminating carrier’s designated “edges” in a given LATA to use for the delivery of traffic to that LATA. One carrier would pay another only for the use of the latter’s facilities for internetwork transport or transit services, and only at rates based on efficient (forward-looking) costs. Finally, the METE Proposal would replace the current hodge-podge of universal service programs, now largely based on embedded costs, with a single, unified, fully portable universal service support mechanism based on forward-looking economic costs using the most efficient technology. A forward-looking support mechanism will generate efficiency incentives that will help to curb the growth of universal service support.

Consumers have suffered from the inefficiencies of the current intercarrier and universal service systems for far too long. Inefficiencies in the existing regimes translate into higher charges for end user customers, which artificially suppress demand for the newest and most innovative products and services that the Act’s pro-competition provisions are meant to promote.

The Commission must seize this opportunity to avoid further consumer welfare losses resulting from inefficient intercarrier payments that raise prices and restrict competitive choices.

Continuation of legacy inefficiencies will generate unsustainable expansions of the universal service program and increasingly discriminatory intercarrier compensation mechanisms, requiring additional rounds of reform in a never-ending cycle. Meaningful reform will be difficult to achieve, but anything resembling the status quo will impose an increasingly unacceptable burden on consumers for years to come.

II. CTIA'S MUTUALLY EFFICIENT TRAFFIC EXCHANGE PROPOSAL OFFERS THE BEST CHANCE FOR EFFECTIVE REFORM OF THE INTERCARRIER COMPENSATION AND UNIVERSAL SERVICE REGIMES.

The inadequacies of the other proposals in the record highlight the need to look beyond wireline-centric proposals and focus on the experience of competitive carriers, including the wireless industry, in the debate over intercarrier compensation and universal service reform. The unprecedented growth of the wireless industry over the last decade and the extent to which wireless carriers now provide competitively priced, high-quality, facilities-based services in both rural and urban areas, demonstrates that the wireless industry model holds the key to successful, effective reform. Simply put, most of the other proposals in the record reflect where the telecommunications industry has been, and the wireless model represents where telecommunications is going.

Wireless technology has become a significant force in the communications market and has revolutionized how Americans communicate with each other. By 2003, 97 percent of the total U.S. population lived in counties in which there is access to three or more different wireless

carriers,⁹ and approximately 62 percent of the total land area of the United States has access to at least three wireless carriers.¹⁰ Today, more than 182 million wireless subscribers in the United States are served by an industry composed of over 180 wireless service providers. These providers continuously invest in network upgrades and new technologies in order to provide more efficient and better quality telecommunications services.¹¹ Approximately 50.5 percent of rural households and 53.5 percent of urban households have wireless services.¹² About six percent of all households have wireless service only, and that percentage is growing rapidly.¹³ Wireless minutes of use increased approximately 32.7 percent and exceeded one trillion minutes in 2004.¹⁴ As federal and state regulators have acknowledged, wireless carriers play a key role in expanding telephone services to those parts of the United States with little or no wireline

⁹ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Conditions With Respect to Commercial Mobile Services*, Ninth Report, 19 FCC Rcd 20597, 20608-09, 20618 (2004) (“*CMRS Ninth Report*”).

¹⁰ *Id.* at 20618.

¹¹ Comments of CTIA, WT Docket No. 05-71, at 5-6, 11 (Mar. 28, 2005) (“CTIA CMRS Competition Comments”); Industry Analysis and Technology Division, Wireline Competition Bureau, *Trends in Telephone Service*, at 11-1 (May 2004) (“2004 Telephone Trends Report”); CTIA Industry Survey. The wireless industry’s cumulative capital investment increased from \$90 billion in 2000 to \$173 billion in 2004. *Id.*

¹² CTIA CMRS Competition Comments at 21; *see also id.* at 12-17 (describing wireless developments in rural markets).

¹³ *CMRS Ninth Report* at 20683-85.

¹⁴ *See* CTIA Industry Survey; *see also* CSFB US Equity Research, *Key Telecom Trends: Wireless Subs the Positive Surprise* (Apr. 29, 2005) (“CSFB Trends Report”) (reporting faster wireless market expansion and stronger wireless data penetration than previously estimated).

telephone penetration.¹⁵ The five Economic Areas (“EAs”) in the United States with the lowest population had an average wireless penetration rate of 46.51 percent in 2003.¹⁶

This unprecedented rate of growth has occurred largely in the absence of massive guaranteed subsidy flows to wireless carriers, either through intercarrier compensation or universal service. In fact, the average wireless carrier recovers all of its revenues from its end user customers and is a net payer of intercarrier compensation and universal service, largely to its incumbent LEC (“ILEC”) competitors. The success of the wireless model is compelling and underscores the importance and urgency of reform of antiquated regimes that threaten to undermine this success. The wireless industry will continue to leverage its growth, innovative services and products, and competitive skills to bring more ubiquitous and affordable telecommunications services to Americans.

More than any other telecommunications sector, the wireless industry shares the needs of consumers: greater transparency; more efficiency; new and innovative services; and freedom from the restrictions imposed by the wireline network. These pro-consumer incentives are reflected in the intercarrier compensation and universal service reform principles advocated by CTIA.

Specifically, CTIA proposes the following reform principles:

- Reform should maximize benefits for consumers by fostering a competitive environment that provides incentives for efficiency and innovation;

¹⁵ Comments of CTIA – The Wireless Association™, at 15-16, CC Docket No. 96-45 (Oct. 15, 2004) (“CTIA USF Reform Comments”); FCC Press Release, *Consumer & Governmental Affairs Bureau Reports on Status of ‘Lands of Opportunity: Building Rural Connectivity’* (July 8, 2004); *North Dakota PSC Launches Initiative to Expand Wireless Service in Rural Areas*, TR Daily, July 27, 2004.

¹⁶ *CMRS Ninth Report* at 20696 (Table 3 comparing the wireless penetration rates of EAs 149, 126, 142, 112, and 145).

- Regulators should transition to an efficient unified interconnection system that eliminates arbitrary regulatory distinctions and encourages commercial negotiations;
- Originating and terminating service providers should recover their network costs from their own end user customers (except to the extent universal service is needed) and, in a competitive market, should have flexibility in how those costs are recovered;
- Rules should not distort the competitive marketplace by conferring advantages on one technology or category of service provider over another;
- Universal service support should be targeted and should encourage and reward efficiency; and
- The intercarrier compensation and universal service regimes should be as simple as possible to administer, which will aid compliance and enforcement and minimize costs.¹⁷

All of the intercarrier compensation reform proposals, including CTIA's METE Proposal, should be assessed in light of the wireless reform principles set forth above and the benefits such proposals would confer on consumers. For the reasons set forth below, the METE Proposal would best achieve these goals and the similar goals enumerated by the Commission.

A. The Commission Should Transition To A Default Unified Interconnection System Based On Mutually Efficient Traffic Exchange.

1. A Default Unified Compensation Mechanism Eliminating Call Origination And Termination Charges Will Erase Obsolete, Inefficient And Anticompetitive Regulatory Distinctions.

The foundation of CTIA's METE Proposal is a unified intercarrier compensation and interconnection process based on the elimination of charges for the origination and termination of calls for all categories of traffic, governing all intercarrier relationships not covered by a negotiated or arbitrated agreement filed with the relevant state commission or commissions. This unified default mechanism, also sometimes referred to as "bill-and-keep," can address the

¹⁷ See CTIA Principles.

inefficiencies and discriminatory distinctions of the current regime and foster a competitive environment that provides incentives for efficient and innovative voluntary arrangements.

Eliminating charges for the origination or termination of calls will also eliminate regulatory and jurisdictional classifications (*e.g.*, between local and long-distance and between interstate and intrastate traffic, and between wireline and wireless, rate-of-return and price cap, rural and non-rural, and circuit-switched and IP-based service providers) that are irrelevant to telecommunications functions and economic cost differences. Although these distinctions should mean nothing to consumers, they result in widely disparate rates for identical functions that should incur similar costs (*e.g.*, the significant differences in rates charged for the virtually indistinguishable functions of reciprocal compensation and terminating access).

These artificial distinctions generate unnecessary complexity and impose additional costs on both carriers and consumers. Disparate compensation obligations for virtually indistinguishable functions with regard to different categories of traffic create strong incentives for service providers to route or characterize traffic in order to arbitrage the system to reduce their intercarrier compensation costs. Arbitrage distorts the organization of firms and service offerings. Service providers focus on taking advantage of lower-priced services (*e.g.*, organizing as an Internet service provider (“ISP”) in order to purchase local business lines instead of interstate access services), rather than investing in the most technically efficient solution. These distortions burden the intercarrier compensation and universal service systems and lead to increased costs for consumers.

The CTIA METE Proposal would eliminate these arbitrary distinctions by transitioning to a mutually efficient traffic exchange system subjecting all carriers, in the absence of a voluntary arrangement, to a uniform intercarrier compensation charge of zero. Accordingly, the

CTIA METE Proposal will eliminate completely the perverse arbitrage incentives that exist today and will therefore reduce the ultimate costs to consumers by allowing service providers to focus entirely on the inherent efficiencies of their service offerings.

The elimination of charges for the origination or termination of calls does not mean that service providers must perform all services for other providers at no cost. The rates that are subsumed under the heading of intercarrier compensation are access charges and reciprocal compensation,¹⁸ which essentially recover internal network costs incurred in carrying an interconnected call entirely within a service provider's network to or from its end user customer. As discussed below, carrier recovery of internal network costs from their own end-user customers is more consistent with cost causation principles and the shared benefits of connectivity to calling and called parties. Providers, however, will continue to recover for services provided between networks, including responsibility for any transport and transit services performed by providers interconnected with the originating and terminating service providers on a given call. In Part II.B. *infra*, CTIA discusses the default interconnection rules in its METE Proposal, including the responsibility for transport and transit services.

2. The Elimination Of Charges For The Origination Or Termination Of Calls Will Reduce Consumers' Costs.

Fashioning an optimal intercarrier compensation policy should not be a zero-sum game in which different service providers try to impose exorbitant charges on one another. The economically correct choice will benefit all consumers by reducing overall end user service rates. The best way to generate rate reductions is to harness service providers' incentives to reduce costs in a competitive market. As long as service providers are permitted to impose their internal

¹⁸ See FNPRM ¶¶ 5-14.

network costs on their competitors in the form of access charges and reciprocal compensation, they will have no incentive to reduce those costs. Accordingly, consumers ultimately will pay more for such services than they would pay under a more efficient system.

The elimination of charges for the origination or termination of calls as a unified default mechanism would force all providers to become more efficient by preventing service providers from imposing inefficient costs unilaterally on other providers. The elimination of origination and termination charges would require carriers to recover their internal network costs primarily from their end users.¹⁹ As a result, this regime would better inform end users of the true total cost of each service and foster intermodal competition. When service provider costs are primarily recovered from that provider's end user customers (rather than passed along to other providers and ultimately borne by other providers' customers), consumers receive accurate signals upon which to base consumption decisions and are thereby empowered to choose the most economical means of meeting their communications needs. Further, providers also receive accurate signals for competitive entry decisions. In short, direct cost recovery from a service provider's own end users will result in a much more efficient market, thereby encouraging the development of competition, and, ultimately, lower costs for consumers.

A default system under which origination and termination charges are eliminated also will minimize service providers' ability to route traffic and shift costs to other providers based on regulatory considerations. A distortion endemic to the current intercarrier compensation regime is the ability of certain providers, including competitive carriers, to exploit their control over

¹⁹ Carriers serving high-cost areas will have access to universal service support, and other universal service programs, such as Lifeline and Link-Up, are available to lower the cost of services for low-income consumers. 47 C.F.R. §§ 54.400 *et seq.* Universal service support, however, should ultimately be made available only on the basis of the cost characteristics of the customer and area served, not the carrier's own embedded cost structure.

access to end users (and their regulatory status) without having to impose additional direct costs on their end users. These providers can price access services above cost and thereby shift their network costs to other providers. This cost shifting imposes the equivalent of a tax on other providers, raising consumer costs, and hobbles competition by enabling service providers to offload their costs onto their competitors. Accordingly, the current system of intercarrier compensation is not competitively neutral.

3. The Efficient Compensation Mechanism In The METE Proposal Is More Consistent With Cost Causation Principles.

The economic efficiency of a bill-and-keep type of system is demonstrated by its use today for calls that both originate and terminate on wireless networks. Because these calls occur in a competitive market where no service provider is dominant, the voluntary elimination of origination and termination charges among wireless providers strongly suggests that this arrangement is an efficient intercarrier compensation mechanism. Similarly, Internet backbone providers have negotiated interconnection agreements that resemble such arrangements.²⁰ These examples show that imposing a unified default mechanism that eliminates charges for the origination or termination of calls would “mimic” the intercarrier compensation practice that would naturally occur in a deregulated competitive market.

The contrast between intercarrier compensation arrangements involving CMRS carriers and those involving LECs also demonstrates that the current system is not technologically neutral. Interexchange carriers (“IXCs”) now pay access charges to LECs for originating or terminating long distance traffic, but they have no regulatory obligation to pay access charges to

²⁰ *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, 9615 (2001). Moreover, some geographically adjacent ILECs with equal bargaining power eliminate intercarrier charges in their interconnection agreements with each other.

wireless carriers for such calls.²¹ LECs thus are able to subsidize local competition with wireless carriers relying upon a revenue source that is largely denied to wireless carriers. Replacing the current system with a default unified system eliminating call origination and termination charges will create a level playing field for all technologies by forcing all carriers to recover all of their internal network costs from end users, just as wireless carriers do now.

Eliminating call origination and termination charges is also more consistent with the realistic cost causation assumption that both parties to a call, rather than just the calling party, benefit from and thus “cause” the communication and that both parties’ networks therefore should share the costs of the call. The typical wireline or wireless telephone call enables the parties to exchange information. The calling party does not merely relay information to the called party. Although the caller decides to place the call, the called party can decide whether to receive it and how long to continue it. Particularly in light of the prevalence of Caller ID and similar services, as well as the success of the Commission’s Do Not Call list, the called party is as much in control of the initiation of the communication as the caller. Because the call recipient can control the initiation and continuation of the communication, the simplifying assumption that both parties benefit from the call arguably is more realistic than earlier assumptions that only the caller benefits.

Moreover, advocates for the retention of inefficient intercarrier charges make the outdated assumption that network costs are incurred on a usage basis and that each call therefore imposes additional costs on recipients. As noted in the FNPRM, usage does not appear to be a

²¹ See *Petitions of Sprint PCS and AT&T Corp. for Declaratory Ruling Regarding CMRS Access Charges*, 17 FCC Rcd 13192, 13196-98 (2002) (“*Sprint/AT&T CMRS Access*”) (IXCs need not pay access charges to CMRS carriers in the absence of a contractual obligation to do so).

significant determinant of costs, given current telecommunications technology.²² The Commission long ago recognized that loop costs, which are a function of subscriber density and technology, are not usage based, and the same appears to be true with regard to switching costs.²³ Because a call does not impose significant incremental costs on either the calling party's or called party's network, there is no justification for allowing the terminating network to impose any charge on the non-terminating network.

Furthermore, the non-traffic sensitive nature of network costs renders traffic flows or internetwork traffic balances irrelevant. Specifically, callers do not impose significant costs on called parties' networks (or on called parties, given the prevalence of bundled, flat-rate offerings), so a disproportionately inbound traffic flow does not disadvantage a carrier. Eliminating charges for the origination or termination of calls thus does not favor one classification of carrier over another.

Because service providers subject to a default unified regime precluding charges for the origination or termination of calls could not recover internal network costs from other providers, they would require greater flexibility to recover costs (other than those covered by universal service support) from their end users. In those retail markets where there is vigorous local exchange service competition, end user rates, including the federal subscriber line charge ("SLC"), should be detariffed at the state and federal levels. In those markets, the Commission can rely on competition to control end user rates and thereby force reductions in ILEC embedded

²² FNPRM ¶¶ 23, 67-68.

²³ *Id.* See also *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, 18 FCC Rcd 17722, 17903-10 (CCB 2003) (establishing flat-rated switching charges based on a finding that most switching costs are not traffic-sensitive), *appl. for review pending*.

network costs. Moreover, deregulation of LEC rate structures, *e.g.*, allowing LECs to combine intrastate and interstate rate elements into one rate (just as is currently done by wireless carriers), is consistent with the elimination of meaningless regulatory distinctions in intercarrier compensation and universal service. In those markets that are not competitive, ILECs would have the opportunity – through the rate-making process – to demonstrate to relevant state or federal regulators that increased end user rates are justified.²⁴

4. The Elimination Of Call Origination And Termination Charges Would Reduce The Need For Regulatory Oversight.

Finally, a default unified system under which call origination and termination charges are eliminated will dramatically reduce the need for regulatory oversight of interstate or intrastate access or reciprocal compensation rates. Requiring carriers to recover internal network costs that are not covered by universal service support from end users may require some additional short term oversight of end user rates where competition has not fully developed. Because wireline retail rates are already regulated by state commissions, however, a default unified system eliminating state and federal intercarrier charges will result in a significant overall net reduction in regulation.

Moreover, a default system eliminating call origination and termination charges is more sustainable in an intermodal competitive marketplace, in which regulators will increasingly be faced with inconsistent intercarrier compensation regimes among services and technologies that compete directly. Increasing intermodal competition will reduce the need to regulate end user rates, thereby increasing the regulatory “savings” resulting from the elimination of charges for the origination or termination of calls. A default system eliminating origination and termination

²⁴ To minimize administrative burdens, state commissions could consolidate rate cases for rural incumbent LECs into one generic docket – just as is done in many states today.

charges also will eliminate the need for carriers to track, bill and collect charges for traffic exchanged with other carriers and related auditing activities, as well as disputes and litigation arising from such charges. All of these cost reductions will benefit consumers, particularly because they will remove transactional friction that hampers competition.

5. Failure To Eliminate Discriminatory Call Origination And Termination Charges Will Require The Commission To Resolve Long Pending Intercarrier Compensation Issues.

If the Commission chooses not to eliminate charges for the origination or termination of calls, it must devote significant attention to resolving at least two intercarrier compensation disputes that have been pending for some time. First, in 1996, the Commission initiated a rulemaking proceeding that asked in relevant part whether CMRS carriers should be allowed to impose access charges on IXC's for originating or terminating long distance traffic on their wireless networks (the "*CMRS Access Charge NPRM*").²⁵ The Commission tentatively concluded that CMRS carriers could recover access charges, but it never adopted a final decision in that proceeding.²⁶ The elimination of call origination and termination charges would moot the access charge issue raised in the *CMRS Access Charge NPRM*.

²⁵ See *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers*, Notice of Proposed Rulemaking, 11 FCC Rcd 5020 (1996) ("*CMRS Access Charge NPRM*").

²⁶ *Id.* at 5074-76. In 2002, the Commission released a declaratory ruling on a related issue. Specifically, the Commission concluded that, from 1998 to 2002, Sprint PCS was not prohibited from charging an IXC access charges, but that the IXC was not obligated to pay the charges unless it had a contractual obligation to do so. *Sprint/AT&T CMRS Access*. The Commission recently noted that the *CMRS Access Charge NPRM* is still open. See *Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, Declaratory Ruling and Report and Order, CC Docket No. 01-92, FCC 05-42, ¶ 2 (Feb. 24, 2005) ("*Wireless Termination Tariff Order*").

The Commission also would have to address the apparent refusal of certain rural LECs (“RLECs”) to recognize Major Trading Area (“MTA”) boundaries with regard to their treatment of calls between RLEC and CMRS customers. The refusal to recognize MTA boundaries for local calls improperly subjects wireless traffic to much higher RLEC access charges instead of reciprocal compensation, a practice that improperly burdens the RLECs’ own customers with higher charges for land-to-mobile calls.

In addition, wireless carriers require numbering resources in RLEC rate centers in order to provide a local calling area that is commensurate with landline numbers. Otherwise, intra-MTA calls to a wireless carrier’s numbers would have to be dialed as if they were toll calls, in violation of wireless carriers’ statutory right to dialing parity.²⁷ In some cases, however, RLECs refuse to route intra-MTA calls to numbers served by wireless carriers unless those numbers are dialed as toll calls, *i.e.*, starting with a “1+.” For example, a Tennessee RLEC began treating all intra-MTA calls from RLEC subscribers to the wireless carrier’s customers as toll calls.²⁸ The RLECs’ motivation for denying wireless carriers their dialing parity rights is clearly to generate access charges by treating intra-MTA calls as if they were toll calls. Because there would be no access charges to collect if call origination and termination charges were eliminated, even if the calls in question could be treated properly as “toll calls,” this problem would likely disappear under such a regime.

²⁷ See 47 U.S.C. § 251(b)(3).

²⁸ See Rebuttal Testimony of Greg Tedesco on Behalf of T-Mobile USA, Inc., *Petition for Arbitration of T-Mobile Spectrum L.P. d/b/a T-Mobile*, Consolidated Docket No. 03-00585 (Tenn. Regulatory Authority, June 24, 2004).

6. The Commission Has The Authority To Eliminate Federal And State Call Origination And Termination Charges.

The Commission has clear statutory authority to impose a unified bill-and-keep regime on intrastate and interstate intercarrier traffic to be applied in the absence of a voluntary arrangement. Section 251(b)(5) of the Act, which was enacted as part of the Telecommunications Act of 1996 (“1996 Act”), provides that all LECs have a duty to “establish reciprocal compensation arrangements for the transport and termination of telecommunications.”²⁹ This language – drafted broadly to cover all “telecommunications” – does not distinguish among different types of traffic based either upon jurisdiction or type of service. Further, the Commission has authority to implement Section 251(b)(5), and thus has authority to regulate compensation arrangements for the transport and termination of *all* telecommunications traffic that involves a LEC on at least one end, including intrastate traffic, and regardless of the identity of the party responsible for payment of those charges.

Beyond this broad jurisdictional authority to impose a unified intercarrier compensation system for all telecommunications traffic (including intrastate access traffic), the Commission also has jurisdictional authority to eliminate specifically all charges for the origination or termination of calls. Section 252(d)(2) of the Act provides that any permissible compensation system must “provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network facilities of calls that originate on the network facilities of the other carrier....”³⁰ This language, however, does not mandate that the two carriers recover these costs solely from one another. Rather, the language is completely

²⁹ 47 U.S.C. §251(b)(5).

³⁰ *Id.* § 252(d)(2)(A)(i).

consistent with a system in which carriers primarily recover these network costs from their own customers (except to the extent universal service support is warranted).

In fact, the statute expressly confirms this interpretation, noting that this quoted language should not be construed to “preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements). . . .”³¹ Accordingly, so long as the adopted reform plan permits the recovery of carrier costs – either from their own end user customers and/or through universal service support – it is jurisdictionally permissible under Section 252.

B. Unified Interconnection Rules Should Apply In The Absence Of Negotiated Or Arbitrated Interconnection Agreements.

Central to any intercarrier compensation reform are default interconnection rules that prevent carriers possessing market power from imposing onerous interconnection and/or transit requirements on their competitors. Without effective interconnection rules, carriers with greater bargaining power could impose costly burdens on their competitors by requiring them to exchange traffic in a manner that exploited that power. Default interconnection rules, however, are not an end in themselves but, rather, should be structured to maximize carriers’ incentives to negotiate voluntary interconnection and compensation arrangements. CTIA emphasizes that the METE Proposal, including the following interconnection rules, is a *default* plan that is relied upon only in the absence of negotiated or arbitrated agreements filed with and approved by the appropriate state commissions (or this Commission).

³¹ *Id.* § 252(d)(2)(B)(i).

1. Originating Carriers Would Be Required Only To Deliver Traffic To Any One Of The Terminating Carrier's Designated Network "Edges."

These default interconnection rules represent a consensus among CTIA members and reflect wireless carriers' needs for a market environment that facilitates intermodal competition. The interconnection rules would apply after a reasonable transition period. Once the transition is complete, the originating carrier would be responsible for assuming the costs of delivering an interconnected call, including the securing of any necessary transport services, to the terminating carrier's network edge and could determine how to provision facilities to deliver traffic to the terminating carrier. Each carrier, including wireless carriers, must designate at least one edge to receive traffic in every LATA it serves. Edges are facilities that can serve as points of interconnection for the receipt of traffic. The technical criteria in the ICF Plan could be used for determining what can qualify as a network edge.³² Consistent with those technical criteria, carriers may designate any number of edges in any LATA.

For the direct exchange of traffic, non-terminating carriers (*i.e.*, an originating or transiting carrier) are required to deliver traffic only to any one of the terminating carrier's designated edges in a given LATA. Thus, for any given call to a LATA, the non-terminating carrier may select the delivery point from among the terminating carrier's designated edges in the LATA. An originating or transiting carrier must, however, segregate traffic delivered to the terminating carrier's edge into separate trunk groups based on the highest level of switching on the terminating carrier's network that directly serves the point of termination for each call.

³² See ICF Plan at 4-9. Because of the configuration of wireless and non-traditional wireline networks, however, the number of designated edges in a LATA should not be limited to the total number of ILEC tandems, and carriers should not be restricted to one edge at any given geographic location, as proposed by the ICF. *Id.* at 4. If a non-terminating carrier may choose any terminating carrier edge for the delivery of traffic in a given LATA, there is no need to limit the number or locations of edges, apart from technical criteria.

For example, if a terminating carrier has three tandem switches in a LATA, traffic destined to points served by each of those tandems must be delivered to the terminating carrier at one of the edges in that LATA in a separate trunk group from traffic destined to points served by the other tandems. Similarly, if a terminating wireless carrier has three mobile switching centers (“MSCs”) in a LATA, traffic destined to points served by each of those MSCs must be delivered to the wireless carrier at one of the edges in that LATA separately from traffic destined to points served by the other MSCs. In the event that none of the designated edges in a LATA happens to be a switch, however, the non-terminating carrier must segregate traffic to that LATA based on the designated edge that serves the point of termination for each call.

No exceptions or modifications to the edge requirements or any of the interconnection or compensation rules in the METE Proposal should be allowed to favor any category of service provider in the absence of a voluntary agreement. In this regard, the METE Proposal contrasts with the edge rules and other interconnection requirements in other plans that distinguish between “hierarchical” and “non-hierarchical” networks and between RLECs and other LECs. Such distinctions violate the principle of competitive neutrality and would perpetuate the inefficiencies, discrimination and unnecessary complexity engendered by the current intercarrier compensation regime.

Once traffic is delivered to the terminating carrier’s edge, the terminating carrier would be responsible for assuming all of the costs of delivering the traffic from the receiving edge to its end user customer. The terminating carrier’s responsibility to deliver traffic extends to all categories of calls: intrastate and interstate; local and long distance; and wireless and wireline. Imposing strict responsibility for delivery of all calls on the terminating carrier ensures that the

elimination of call origination and termination charges cannot be evaded by offloading termination responsibility onto other carriers.

CTIA does not intend, however, for these default rules – particularly the edge requirements – to be inflexible. Any interconnection regime selected by the Commission must have enough flexibility to accommodate new network technologies and architecture as networks evolve. Although the consensus edge and other interconnection rules in the METE Proposal are as competitively neutral as today’s networks will allow, they are nevertheless organized in relation to wireline network architecture. The Commission will need to address non-wireline-centric edge definitions and other interconnection rules in the future as circuit-switched wireline networks become less representative of the overall telecommunications industry.

2. Interconnecting Wireless Carriers Have A Legal Right To Direct Or Indirect Interconnection And Transit Services.

Carriers have a statutory right under Section 251(a)(1) of the Act to interconnect either directly or indirectly with a wireline or CMRS carrier for the termination of traffic at the wireline or CMRS carrier’s edge or other mutually agreed upon point of interconnection (“POI”).³³ No carrier can be required to directly interconnect with another carrier, and no carrier may refuse traffic from another that has established direct or indirect interconnection under these default rules. In the case of indirectly interconnected originating and terminating carriers, the originating carrier may use transit service offered by any third party that is able to deliver traffic to the terminating carrier’s edge and would be responsible for assuming the costs of such transit service and establishing connectivity to the transit provider’s edge or agreed POI. Where indirectly interconnected originating and terminating carriers are both interconnected with a LEC

³³ 47 U.S.C. § 251(a)(1).

that is able to deliver traffic to the terminating carrier, the LEC would be required to provide transit services for the originating carrier.

Where an originating carrier indirectly interconnected with a terminating carrier through a transit provider meets a threshold of 600,000 or more minutes of use (“MOU”) per month of one-way traffic between the originating carrier and the terminating carrier’s lowest level of switching that directly serves the point of termination for that traffic, the originating carrier will have the option of either: (1) using direct connections to the terminating carrier’s edge or mutually agreed-upon POI; or (2) delivering traffic through a segregated trunk group. Traffic segregation requirements are necessary to allow the most efficient use of transit facilities.

With respect to interstate traffic, Section 201(a) provides the Commission with the statutory authority to regulate transit traffic and transit rates.³⁴ Specifically, Section 201(a) provides the Commission with broad authority in cases that it “finds such action necessary or desirable in the public interest,” to require the establishment of “physical connections” between carriers, to require the establishment of “through routes” and applicable charges, and to establish regulations governing such “through routes.”³⁵ This language explicitly provides the Commission with authority over not only a transit connection itself, but also the charges and other terms and conditions related to such a connection.

More specifically and more broadly, Section 251(a) of the Act requires *all* telecommunications carriers to “interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers....”³⁶ By expressly permitting indirect

³⁴ *Id.* § 201(a).

³⁵ *Id.*

³⁶ *Id.* § 251(a)(1) (emphasis added).

interconnection – *i.e.*, transiting arrangements – this statutory provision authorizes the Commission to regulate *all* transit traffic, whether interstate or intrastate, in order to implement this requirement.³⁷ Regulation of the physical interconnection between two networks necessarily encompasses the connecting or “transiting” pipe that may be the means of such interconnection when it occurs indirectly.³⁸

Accordingly, the Commission has the authority, and should exercise that authority, to require ILECs to provide transit services. Further, in light of the Commission’s Section 201(b) obligation to ensure reasonable rates for regulated services, the Commission – by necessary and logical extension – may regulate transit rates, including the rates for intrastate transit service

³⁷ See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, 17320 n.1640 (2003) (noting that transiting is “a means of indirectly interconnecting with other. . . carriers for the purpose of terminating local and intraLATA traffic”), *vacated and remanded on other grounds sub nom., United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004), *cert. denied*, 125 S.Ct. 313, 316, 345 (2004).

³⁸ See *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, 17 FCC Rcd 27039, 27101-02 (2002) (“*MCI Virginia Arbitration*”) (noting that transit is vital to the “ability to interconnect indirectly with other carriers”).

The North Carolina Utilities Commission also has provided a clear explanation of the history and importance of transit traffic. See *Petition of Verizon South, Inc. for Declaratory Ruling that Verizon is Not Required to Transit InterLATA EAS Traffic Between Third Party Carriers and Request for Order Requiring Carolina Telephone and Telegraph Company to Adopt Alternative Transport Method*, Order Denying Petition at 6-7, Docket No. P-19, SUB 454 (Sept. 22, 2003) (“If there were no obligation to provide transit service, the ubiquity of the telecommunications network would be impaired.... The fact of the matter is that transit traffic is not a new thing. It has been around since ‘ancient’ times in telecommunications terms. The reason that it has assumed new prominence since the enactment of [the 1996 Act] is that there are now many more carriers involved – notably, the new CMRS and the [CLECs] – and the amount of traffic has increased significantly. ... It strains credulity to believe Congress in [the 1996 Act] intended, in effect, to impair this ancient practice and make it merely a matter of grace on the part of ILECs, when doing so would inevitably have a tendency to thwart the very purposes that [the 1996 Act] was designed to allow and encourage.”).

required pursuant to Section 251(a).³⁹ In order to ensure a reasonable rate, the Commission may and should set nationwide default rates for transport and transit services based on efficient (*i.e.*, forward-looking) costs.⁴⁰ Unless these rates are based on efficient costs, transport and transit charges will negate some of the benefits of intercarrier compensation reform.

3. Default Interconnection Rules Also Should Apply To Carriers' Signaling Networks.

Under the default interconnection rules in the METE Proposal, if two service providers choose to employ Signaling System 7 (“SS7”) to exchange call signaling information, they should be able to do so by either direct or indirect interconnection of their SS7 networks. No service provider may require direct SS7 interconnection from another provider. Two service providers that are directly interconnected to exchange traffic do not necessarily have to directly interconnect their SS7 networks to do so. Indirect interconnection may be accomplished by using the services of an SS7 Hub Provider, analogous to a carrier using a transit provider to indirectly interconnect with another carrier.

Permitting indirect interconnection of SS7 networks enables service providers to avoid unnecessary transport and Signaling Transfer Point (“STP”) port charges. Otherwise, service providers with greater market power could impose onerous direct SS7 interconnection requirements on competitors. Permitting indirect SS7 interconnection therefore is a necessary element of competitively neutral default interconnection rules.

When two service providers agree to directly interconnect SS7 networks, each carrier will designate the STP pair(s) and locations of associated Signaling Points of Interconnection

³⁹ 47 U.S.C. § 201(b).

⁴⁰ See *Verizon Communications, Inc. v. FCC*, 535 U.S. 467, 496-528 (2002) (upholding Commission’s use of total element long-run incremental cost pricing methodology).

(“SPOIs”) that will be used for SS7 interconnection. Furthermore, each carrier will assume responsibility for the provisioning and costs of two of the four D-links in a quad set required to provide connectivity between the STP pairs designated by each carrier. Consistent with the efficient compensation mechanism applied to other intercarrier charges in the METE Proposal, neither carrier may bill the other for SS7 transport, STP ports or messages between signaling points. These internal network costs also should be recovered from each carrier’s end user customers.

4. No Carrier May File Any Unilateral Tariff For Any Intercarrier Charge.

The default intercarrier compensation mechanism established under the METE Proposal would not allow carriers to unilaterally file access, local termination or any other type of tariff for the origination or termination of any form of local, intrastate toll or interstate wireless or wireline traffic. The Commission’s rules already prohibit intercarrier tariffs for some categories of traffic (*e.g.*, Section 51.703(b) of the rules prohibits LEC origination charges, and Section 20.11(e) prohibits LEC termination tariffs for intra-MTA wireless calls).⁴¹ With the elimination of charges for the origination or termination of calls, no intercarrier tariffs would be permissible except pursuant to a negotiated or arbitrated agreement. Unilateral tariffs are inconsistent with the Commission’s clearly stated preference for commercial negotiations, which is reflected in the default rules of the METE Proposal.⁴²

⁴¹ See 47 C.F.R. §§ 51.703(b), 20.11(e); *Wireless Termination Tariff Order* ¶ 14.

⁴² *Wireless Termination Tariff Order* ¶ 14.

5. Wireless Carrier Routing And Rating Points Must Be Respected.

CTIA also strongly urges the Commission to confirm that a LEC is obligated to load wireless carrier numbers with different routing and rating points into its switches and route calls to those numbers accordingly. This issue is squarely raised in Sprint Corporation's ("Sprint") May 9, 2002 Petition for Declaratory Ruling.⁴³ Some ILECs are refusing to route calls originating on other carriers' networks to numbers served by wireless carriers with different routing and rating points and where the rating point for the number is associated with another LEC's rate center. This situation can arise when a wireless carrier has customers throughout a large area served by its MSC that have telephone numbers with NXX codes rated in different rate centers throughout the service area. If calls to those numbers are routed through a single ILEC tandem, the routing point (the tandem) typically will be different from the rating point for the called party's number. The ILECs that are refusing to route calls in this manner are insisting that the wireless carrier interconnect directly with the ILEC serving each rate center associated with the NXX codes for the numbers served by the wireless carrier, so that each of the wireless customer numbers has a rating point that matches its routing point.

Under the Commission's numbering rules, however, wireless carriers may obtain numbers and assign them to any LEC rate center where they provide service,⁴⁴ and it is well recognized that having telephone numbers with separate routing and rating points often is the most efficient alternative for carriers. Industry guidelines also recognize that the rating and

⁴³ Sprint Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, CC Docket No. 01-92 (May 9, 2002).

⁴⁴ 47 C.F.R. § 52.15(g).

routing points for a number may be different.⁴⁵ Specifically, wireless carriers require numbering resources in ILEC rate centers in order to provide a local calling area that is commensurate with landline numbers. Otherwise, intra-MTA calls to a wireless carrier's numbers would have to be dialed as if they were toll calls unless the wireless carrier were directly interconnected with each ILEC originating local calls to the wireless numbers.

Under Section 251(a)(1) of the Act, direct interconnection is not required.⁴⁶ The Commission has long recognized that wireless carriers cannot be required to interconnect directly with another carrier and that the choice whether to interconnect directly or indirectly belongs to the competitive carrier based upon technical efficiencies and costs.⁴⁷ Further, the Commission's rules specifically mandate that a LEC must provide the type of interconnection reasonably requested by a wireless carrier.⁴⁸

Pursuant to these rules, traffic originating on an ILEC's network and terminating on a wireless network is often transited through the tandem of a Regional Bell Operating Company ("RBOC"), creating an indirect interconnection between the networks of the originating ILEC and the wireless carrier.⁴⁹ Furthermore, the Commission's rules specifically provide that intra-

⁴⁵ See, e.g., Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, § 6.2.2 (Feb. 4, 2005) ("Each switching center, each rate center and each POI may have unique V&H coordinates.").

⁴⁶ 47 U.S.C. § 251(a)(1).

⁴⁷ *Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, 15991 (1996) ("*LEC/CMRS Interconnection Order*").

⁴⁸ 47 C.F.R. § 20.11(a).

⁴⁹ See *MCI Virginia Arbitration*, 17 FCC Rcd at 27101-02 (noting that transit is vital to the "ability to interconnect indirectly with other carriers").

MTA calls are subject to reciprocal compensation, not access charges,⁵⁰ and the U.S. Court of Appeals for the 10th Circuit recently confirmed that a wireless carrier may charge reciprocal compensation to an ILEC originating an intra-MTA call routed through another carrier to the wireless carrier for termination.⁵¹

Accordingly, the Commission should retain its current routing and rating rules and clarify that LECs are required to load wireless numbers with different routing and rating points into their switches and route calls to those numbers accordingly. Intra-MTA calls to such numbers must be treated as local calls by the originating LEC and by an ILEC receiving such calls from an originating LEC for transit to the terminating wireless carrier. Otherwise, wireless carriers will be forced to either replicate the ILEC legacy network in order to interconnect directly everywhere or treat local calls as toll calls and pay access charges. It is imperative that the Commission act quickly to grant Sprint's petition in order to prevent further disputes regarding this issue.

C. Universal Service Reform Is Necessary To Encourage And Reward Efficiency, Thereby Ensuring That Consumers Have Access To High Quality Services At Affordable Rates.

1. The Focus Of Reform Must Be On Consumers, Not Carrier Revenue Replacement.

Section 254(b) of the Act sets forth certain principles upon which the universal service program must be based, including the availability of quality services at just, reasonable and affordable rates to all Americans under a specific, predicable and sufficient support

⁵⁰ See 47 C.F.R. §§ 51.701(b)(2), 51.703. See also *LEC/CMRS Interconnection Order*, 11 FCC Rcd at 16014 (stating that intraMTA traffic originating or terminating on a wireless network is subject to transport and termination charges rather than access charges); *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151, 9173 (2001) (same).

⁵¹ *Atlas Tel. Co. v. Oklahoma Corp. Comm'n*, 400 F.3d 1256, 1264 (10th Cir. 2005).

mechanism.⁵² Consistent with this mandate, any universal service reform should ensure that no matter where a consumer is located, he or she will have access to high-quality services at affordable rates, without obstructing competition by providing preferential treatment to ILECs.

These goals, however, are not being met under the existing universal service mechanism. High-cost universal service support has more than tripled since 1996, jumping from \$1.2 billion in 1996 to over \$3.8 billion in 2005.⁵³ Each year since 1996, each of the high-cost support funds has steadily and substantially risen over time, not only in the years when new funds were established.⁵⁴ This growth has occurred even as the number of wireline switched access lines and overall wireline penetration has remained stagnant and raises the question as to what consumer benefits are created by these additional expenditures.

Contrary to a widely held misconception, these increases are mostly attributable to the incumbent wireline carriers, not competitive wireless providers. ILECs were responsible for 87 percent of the growth in the high-cost funds between 2000 and 2003.⁵⁵ During that period,

⁵² 47 U.S.C. § 254(b).

⁵³ See Federal-State Joint Board on Universal Service, *2004 Universal Service Monitoring Report*, at Table 3.1, CC Docket No. 98-202, available at www.fcc.gov/wcb/iatd/monitor.html (“2004 USF Monitoring Report”); USAC 2005 3Q Report at 7-10.

⁵⁴ The only exception is the Interstate Access Service fund established under the CALLS Plan, which has a hard annual cap of \$650 million. For example, the high-cost loop support increased by 23 percent between 1996 and 2004; high-cost model support increased 17 percent between 2000 when it was implemented and 2004; long term support (“LTS”) and ICLS (these are combined because recovery under LTS is being phased out and incorporated into ICLS) increased 32 percent between 2002 and 2004; IAS increased 55 percent between 2000 and 2004; and local switching support increased 11 percent between 1998 and 2004. See 2004 USF Monitoring Report at Table 3.1.

⁵⁵ CTIA USF Reform Comments at 3-4; Universal Service Administrative Company, 2000 Annual Report at 30, available at www.universalservice.org/reports/2000/default.asp (“USAC 2000 Annual Report”); Universal Service Administrative Company, 2004 Annual Report at 27, available at www.universalservice.org/download/pdf/2004AnnualReport.pdf (“USAC 2004 Annual Report”).

ILECs received approximately \$55.73 for every \$1 of support received by competitive eligible telecommunications carriers (“CETCs”).⁵⁶ ILECs continue to receive more than 90 percent of all high-cost funding even though the number of wireless handsets has overtaken LEC wireline switched access lines.⁵⁷

The explosive growth in high-cost funding provided to carriers is at odds with Section 254(b) of the Act, which makes *consumers*, rather than the carriers that serve those consumers, the intended beneficiaries of universal service.⁵⁸ As the Fifth Circuit has affirmed:

The Act does not guarantee all local telephone service providers a sufficient return on investment.... So long as there is sufficient and competitively-neutral funding to enable all customers to receive basic telecommunications services, the FCC has satisfied the Act and is not further required to ensure sufficient funding of every local telephone provider as well.⁵⁹

As the CALLS IAS fund and the ICLS fund under the MAG Plan demonstrate, however, much of the growth in high-cost support has little to do with consumer needs and has been driven instead by the perceived need to replace access charges and other intercarrier revenues with universal service support.⁶⁰ Reductions in intercarrier charges should not be matched by increases in universal service support to ensure that ILECs enjoy a “sufficient return on

⁵⁶ See CTIA USF Reform Comments on 4.

⁵⁷ USAC 2004 Annual Report at 27.

⁵⁸ 47 U.S.C. § 254(b).

⁵⁹ *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 620 (5th Cir. 2001) (“*Alenco*”).

⁶⁰ See, e.g., *CALLS Order*, 15 FCC Rcd at 12975 (“CALLS Plan” reduces subsidies implicit in access charges and “replac[es] the subsidies with explicit ... universal service support”); *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 19613, 19617 (2001) (“*MAG Order*”) (creating “a universal service support mechanism to replace implicit support in the interstate access charges”).

investment.”⁶¹ Shifting support from one inefficient mechanism to another simply exacerbates the existing problems with both intercarrier compensation and universal service and does nothing to bring about effective reform of either regime. Rather, the focus of any universal service reform must be to ensure that consumers in high-cost areas – both rural and non-rural – have access to high-quality supported services at affordable rates and that the level of universal service support is limited to that purpose. To accomplish this goal, the universal service program must spur competition and lower rates by allocating carefully targeted universal service support in a manner that encourages and rewards efficiency.

2. Today’s Universal Service Regime Must Be Reformed To Eliminate The Obsolete Distinctions That Impede Competition And Harm Consumers.

The available data also discloses that RLECs receive a vastly disproportionate share of universal service support. RLECs serve only about 12 percent of the nation’s wireline access lines, yet received approximately three-quarters of all high-cost universal service support in 2004.⁶² RLECs’ share of total universal service support is especially remarkable in light of the fact that they account for such a small share of even the rural market. RLECs serve only about one-fifth of all rural wireline subscribers, while non-rural ILECs serve the remainder.⁶³ Although wireless carriers contributed almost 27 percent (around \$2 billion) of total universal service funding in 2004, they received only 7 percent (\$395 million) of all USF support that

⁶¹ *Alenco*, 201 F.3d at 620.

⁶² See USAC 2005 3Q Report, App. HC01; *see also id.* at App. HC05; USAC 2004 Annual Report at 27.

⁶³ *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 11244, 11323 n.475 (2001).

year.⁶⁴ In contrast, ILECs contributed approximately 24 percent (around \$1.8 billion) of total funding in 2004, but received approximately 81 percent (\$4.3 billion) of all USF support.⁶⁵

When the Commission adopted the rural high-cost support mechanisms, it intended to provide sufficient funding for rural telephone companies to provide supported services, but also incentives to implement innovative technologies and operate more efficiently.⁶⁶ With more innovative and efficient operations, carriers' costs and their resulting draw on the universal service fund should decline. The opposite has happened, however, and the high-cost mechanisms will continue to increase unabated if they are not reformed. Because RLECs are guaranteed high-cost support and an excessive 11.25 rate of return based upon their embedded costs, there is no incentive to operate efficiently by taking advantage of technological advances or utilizing economies of scale.⁶⁷

The sheltered existence enjoyed by many RLECs is underscored by the disproportionate share of their total revenues that is derived from intercarrier compensation and universal service and by how little revenue many RLECs actually earn from their subscribers. For example, in 2003, a group of Kansas RLECs reported that they collectively derived only 17 percent of all revenue from subscribers. The rest was derived from access charges (49 percent) and universal

⁶⁴ See 2004 Telephone Trends Report at Table 19.15; Universal Service Administrative Company, Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Second Quarter 2005, at 4 (Mar. 2, 2005) ("USAC 2Q Contribution Report"), *available at* www.universalservice.org/overview/filings/2005/Q2/2Q2005%20Contribution%20Base%20FC%20Filing.pdf ; USAC 2004 Annual Report at 27.

⁶⁵ See 2004 Telephone Trends Report at Table 19.15; USAC 2Q Contribution Report at 4; USAC 2004 Annual Report at 27.

⁶⁶ See, e.g., *MAG Order*, 16 FCC Rcd at 19617, 19619.

⁶⁷ CTIA USF Reform Comments at 7-10.

service support (34 percent).⁶⁸ More recently, even greater dependence on universal service support was documented in *Lost in Translation*. Of ten Texas RLECs, combined federal and state universal service support ranged from 38.3 to an astounding 76.2 percent of the total revenue of particular RLECs.⁶⁹ Given these excessively high rates of guaranteed universal service and intercarrier compensation, such carriers have little incentive to reduce their costs in response to competition.

Consequently, competition is discouraged, and consumers continue to unnecessarily pay increasing universal service fees to subsidize inefficient rural operations.⁷⁰ For example, the national average loop cost for RLECs grew from approximately \$337 per month in 2000 to approximately \$378 per month in 2003.⁷¹ During roughly the same period, however, from the fourth quarter of 2000 to the fourth quarter of 2004, statewide average loop costs generated by the Synthesis Model for the ten states that currently receive non-rural high-cost funding *declined* by about 1.5 percent per year.⁷² There is no reasonable justification for RLECs' costs to keep

⁶⁸ Ex parte letter from Tom Karalis, Fred Williamson & Associates, Inc. to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Tab 2 at2, Fig. 2 (Aug. 26, 2003).

⁶⁹ Economics and Technology, Inc., *Lost in Translation: How Rate of Return Regulation Transformed the Universal Service Fund for Consumers into Corporate Welfare for the RLECs*, at 7, Table 1.1 (Feb. 2004) (attached to Western Wireless Comments as Exhibit A, CC Docket No. 96-45 (Feb. 13, 2004)) ("*Lost in Translation*").

⁷⁰ See, e.g., *Price Cap Performance Review for Local Exchange Carriers*, 10 FCC Rcd 8961, 8973 (1995) ("*Price Cap Order*") ("Traditional rate-of-return regulation provides few incentives for carriers to become more innovative and efficient, and encourages cost-shifting by carriers that participate in both competitive and noncompetitive markets."); see also *Lost in Translation* at 10 (estimating that the high-cost fund would be approximately \$1 billion less if RLECs had proper incentives to operate efficiently).

⁷¹ CTIA USF Reform Comments at 7.

⁷² Economics and Technology, Inc., *Reforming Universal Service Funding for Rural ILECs: An Idea Whose Time Has Come*, at 8-9 & Fig. 1 (Dec. 2004) (attached to Western Wireless Reply

rising, when other telecommunications providers' costs continue to decline because of operational efficiencies and new technologies.⁷³ Other economic evidence also demonstrates that RLECs are overcompensated by universal service support. Publicly traded RLEC stocks generate returns, measured by market-to-book ratios, far in excess of, and exhibit significantly lower risk premiums than, the supposedly more secure RBOCs.⁷⁴ Rural high-cost support thus is generating excessive returns for shareholders, rather than affordable services for consumers in high-cost areas.⁷⁵

To avoid providing an even greater competitive advantage to ILECs through the distribution of universal service support, high-cost support must be made available and portable strictly on a technologically and competitively neutral basis. Universal service reform must eliminate the archaic and arbitrary distinctions upon which high-cost universal service support currently is based. As the Commission has acknowledged, universal service support should “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”⁷⁶ The existing regime relies on regulatory

Comments on Reform of the Rural High-Cost Support System, CC Docket No. 96-45 (Dec. 14, 2004)) (“USF RLEC Reform”).

⁷³ See, e.g., 2004 Telephone Trends Report at Tables 12.3 and 13.4 (showing declines in price indices and revenue per minute for toll services during the 2000-2003 period). See also *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8933 (1997) (“*USF Order*”) (subsequent history omitted) (noting that where a competitor can serve a customer at a much lower cost, the incumbent carrier may be inefficient).

⁷⁴ USF RLEC Reform at 2-5.

⁷⁵ *Id.* at 1.

⁷⁶ *USF Order*, 12 FCC Rcd at 8801; see also *Alenco*, 201 F.3d at 616 (The universal service program “must treat all market participants equally – for example, subsidies must be portable – so that the market, and not local or federal regulators, determines who shall compete for and deliver services to customers.”).

classifications (*e.g.*, rural or non-rural, rate-of-return or price cap) to allocate high-cost support, and typically bases the amount of support on embedded, inefficient wireline technology, even though supported services can be provided over other platforms, including wireless and IP-enabled technologies. If universal service support favors one type of carrier, or one type of technology, over another, consumers in rural or high-cost areas may be precluded from receiving the optimal services at the most economical rates.

3. The METE Proposal Would Combine All Existing High-Cost Universal Service Programs Into A Single, Unified High-Cost Fund Based On Forward-Looking Costs.

In keeping with the goals of the universal service program, the CTIA METE Proposal would eliminate artificial distinctions between rural and non-rural, rate-of-return and price cap, and interstate and intrastate costs and combine all high-cost universal service programs into a single, unified high-cost funding mechanism for all eligible carriers based on the forward-looking economic costs of the most efficient technology for a particular geographic area. Under the METE Proposal, universal service support would be fully portable to any CETC meeting the requirements of Section 214(e) of the Act.⁷⁷ An eligible carrier's universal service support – regardless of whether it provides wireline, wireless, or other service – would be based upon the forward-looking cost of providing service in a high-cost geographic area using the most efficient technology available for that area.

Depending on the particular characteristics of a location (*e.g.*, population density, geographic characteristics, etc.), wireline might be the most efficient technology, while wireless, cable or other technologies may be the most efficient in another location. An IP-based wireline carrier may be more efficient than a circuit-switched one in some areas. Importantly, the level of

⁷⁷ 47 U.S.C. § 214(e).

high-cost support would be based on the technology that is most cost-effective for the consumer, and would spur other competing carriers to increase their operational efficiencies. This approach ensures that high-cost support is no higher than is necessary and that it declines over time as efficiencies increase.

4. Universal Service Support Should Not Be Used To Subsidize Artificially Low End User Rates.

The high-cost universal service program should not subsidize artificially low end user rates for telecommunications services provided in high-cost areas. Section 254(b)(3) of the Act provides that consumers in rural and high-cost areas should receive access to services at rates that are reasonably comparable to rates charged for similar services in urban areas.⁷⁸ Conversely, carriers and consumers in urban areas should not be required to pay more for services so that consumers in rural areas can receive similar services for less than “affordable” urban rates.

This is not a hypothetical problem. In many regions, rural end user rates are significantly lower than urban rates. Sprint recently presented data showing basic residential rates charged by ten Ohio RLECs ranging from \$4.05 to \$12.35 per month, compared to a nationwide average monthly urban residential rate of \$14.57.⁷⁹ Consumers in urban areas that contribute to the universal service program are effectively subsidizing rural consumers' purchase of below-market services, which is contrary to the policy underlying Section 254(b)(3) of the Act that consumers in rural and high-cost areas have access to services at rates comparable to those in urban areas. There is no statutory or policy justification for requiring urban customers to support lower rural

⁷⁸ *Id.* § 254(b)(3).

⁷⁹ Reply Comments of Sprint Corp. at 7, CC Docket No. 96-45 (Dec. 14, 2004).

rates.⁸⁰ Eligibility for high-cost support thus should be predicated on tariffed end user rates that are no lower than a level corresponding to the cost benchmark used to determine eligibility under the reformed high-cost support mechanism. To encourage compliance with the goals of universal service, it may be appropriate for the Commission to apply the state urban/rural comparability certification requirements to all carriers serving high-cost areas, rather than just non-rural carriers.⁸¹

5. The Commission Should Broaden The Universal Service Contribution Base.

Under Section 254(d) of the Act, the Commission's universal service contribution methodology should ensure that all providers of interstate telecommunications contribute on an equitable and nondiscriminatory basis, ensure that specific consumer categories do not bear an unreasonable and unfair share of contribution obligations, minimize carrier opportunities to avoid contribution obligations and minimize administrative burdens and costs. In order to meet these goals and to ensure that the universal service program remains viable and that consumers and competition are not harmed, the costs of the support mechanism should be spread among the widest base of contributors possible. Specifically, all providers of interstate telecommunications should contribute to universal service on an equitable and nondiscriminatory basis.

The contribution factor for the second quarter of 2005 is 11.1 percent. This factor will likely continue to rise, and, in turn, will increase consumers' bills, if the universal service contribution base is not broadened. Accordingly, the universal service revenue base should be

⁸⁰ To the extent that rural or high-cost areas may include low-income consumers, other universal service programs such as Lifeline and Link-Up are available to lower the cost of services for those customers. 47 C.F.R. §§ 54.400 *et seq.*

⁸¹ See 47 C.F.R. § 54.316(a). See also *Qwest Communications Int'l Inc. v. FCC*, 398 F.3d 1222, 1238 (10th Cir. 2005).

expanded to include cable modem, DSL and other broadband providers; telecommunications revenues derived from IP-enabled services; prepaid calling card providers; CLEC interstate end user charges (*i.e.*, subscriber line charges); and broadcasters, cable leased access providers and OVS providers to the extent that they are selling telecommunications to others.⁸²

The current interstate revenue-based universal service contribution methodology has been endorsed by the courts and should continue to provide a stable, reliable source of support if contributions are assessed from as wide a base as possible. Weighing all of the proposed alternative contribution methodologies – especially in light of questions that have been raised as to the legality of a number or connection-based contribution system and possible administrative obstacles to the use of such an alternative – a revenue-based system that assesses contributions from as wide a revenue base as possible most closely satisfies universal service contribution goals.⁸³

If the Commission ultimately determines, however, that a number or connections-based contribution system is preferable, it must ensure that all providers of interstate telecommunications pay their fair share into the universal service fund, and that the system minimizes administrative complexity and opportunities for gaming in addition to meeting the other goals stated above. All of the points set forth above concerning supporting as wide a contributor base as possible apply equally to a number or connection-based methodology. Moreover, the Commission should avoid the pitfalls associated with those methods. Per-number or per-connection contribution assessments should not discriminate based on capacity. The use

⁸² See 47 C.F.R. § 54.709(a)(1).

⁸³ See, *e.g.*, *Texas Office of Public Utilities Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (Sections 2(b) and 254(d) of the Act prohibit use of a universal service contribution method based partly on intrastate revenues).

of capacity tiers and multipliers to set different levels of contribution thresholds must not provide advantages or arbitrage opportunities to users of higher-capacity connections, and contribution assessments on residential, single-line business and mobile wireless connections should not be based on capacity. Similarly, multi-line business Centrex connections should not be provided special discounts.

D. The Universal Service And Intercarrier Compensation Regimes Should Be As Simple As Possible To Administer.

Transitioning to an efficient unified interconnection regime based on the elimination of call origination and termination charges and a single high-cost universal service fund will significantly reduce the complexity of these two regulatory systems. The convoluted administrative complexity that has characterized these systems creates regulatory compliance and transaction costs, including the cost of tracking, billing and collecting charges, as well as additional legal and other dispute resolution costs. These costs result in service costs that flow through to consumers. In addition, complexity generates avoidance behavior, which increases inefficiency and also creates the possibility of unfair competition as carriers spend resources trying to avoid the imposed costs. A unified intercarrier compensation scheme and simplified high-cost universal service program will aid compliance and enforcement and reduce administrative, compliance, and transaction costs. Accordingly, to achieve the maximum efficiency and consumer benefits, the reform regime adopted in this proceeding should be as simple as possible to administer.

The CTIA METE Proposal would meet this goal in several respects. First, by establishing mutually efficient traffic exchange between carriers without call origination or termination charges, the METE Proposal avoids the complexities of regulators establishing

access charge levels and reciprocal compensation rates. In addition, the CTIA METE Proposal suggests simple and competitively neutral interconnection rules.

For universal service, CTIA's proposal to replace the current high-cost program with a single fund significantly simplifies the existing mechanism. The high-cost universal service mechanism is a compilation of twenty-year-old archaic and complicated cost accounting, jurisdictional separations, regulatory classifications, and reporting requirements.⁸⁴ The complex nature of the mechanism requires carriers to expend significant resources unnecessarily and gives carriers opportunities to game the system to increase universal service support. Under the METE Proposal, the administrative burden created by five high-cost funds would decrease by consolidating them into one. A forward-looking cost model also would replace the detailed cost information that carriers must submit under the current mechanism with minimal reporting requirements.

E. The Commission Should Transition To The New Default Inter-carrier Compensation And Interconnection Regime Within Three Years.

In light of the urgent need for reform, a rapid transition to the default inter-carrier compensation and interconnection rules in the METE Proposal is imperative. CTIA submits that a three-year transition is sufficient and workable. Nine years after passage of the 1996 Act, this reform is long overdue.

At least two important considerations compel reform sooner rather than later. First, the displacement of traditional wireline services by wireless and IP-based services that are less burdened by legacy inefficiencies is accelerating. Approximately six percent of all households

⁸⁴ *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, 96 F.C.C.2d 781 (1984).

have wireless service only, and that percentage is growing rapidly.⁸⁵ One analyst estimated that 23 percent of all voice minutes in 2003 were wireless, and a significant portion of ILEC access line losses and long distance revenue declines are attributable to wireless services.⁸⁶ In the first quarter of 2005, the national wireless operators reported a 12 percent year-over-year increase in subscribers, while the RBOCs reported a 4.7 percent year-over-year decline in their wireline retail subscribers, due to pressure from wireless and VoIP services.⁸⁷ VoIP has taken customers from both wireline and wireless carriers and now accounts for about ten percent of the market, projected to rise to 40 to 50 percent in a few years.⁸⁸ The long-term survival of the wireline industry thus depends on elimination of the legacy costs that hobble its ability to compete against the newer technologies.

Second, as explained above, the inefficiencies of the current intercarrier compensation system, particularly with regard to RLECs, are burdening the universal service program and the end users who ultimately fund that system. The universal service contribution factor is now projected at an unsustainable 11.1 percent for the current quarter. The universal service contribution factor may be close to the “tipping” point, where its burden begins to suppress telephone service penetration and usage more than universal service funding supports such

⁸⁵ See *CMRS Ninth Report*, 19 FCC Rcd at 20683 n.575, 20684.

⁸⁶ *Id.* at 20684.

⁸⁷ CSFB Trends Report.

⁸⁸ See Michael C. Gregg, *Voice Over IP Gains Increasing Market Share*, Apr. 26, 2005, available at www.cramsession.com/articles/get-article.asp?aid=1097; *VoIP Solutions Focus on Disability Access Issues*, Summit, May 7, 2004, available at 2004 FCC LEXIS 2933 (testimony of Brenda Battat, Self Help for the Hard of Hearing).

penetration and usage.⁸⁹ Intercarrier compensation reform, as well as universal service reform, is necessary to squeeze out the embedded costs on which universal service support is now based, so that the total level of support can be stabilized at a more targeted and sustainable level and eventually reduced.

Finally, because the METE intercarrier compensation and interconnection rules apply only where there is no intercarrier agreement, carriers ought to be able to accommodate the new regime more quickly than if it were universally mandatory. Carriers always have the option of negotiating more suitable arrangements, and three years should be sufficient for such negotiations and any necessary arbitrations. CTIA acknowledges that, within the three-year period, the transition should proceed in stages, particularly the transition to a mechanism eliminating call origination and termination charges.

III. MEASURED AGAINST THE WIRELESS REFORM PRINCIPLES, OTHER PROPOSALS WOULD NOT ACHIEVE NEEDED REFORMS.

In contrast to the pro-consumer incentives for efficiency and innovation that the METE Proposal would generate, the other proposals noted in the record largely would fail to meet the reform principles supported by CTIA and the Commission's own stated goals. Other proposals would retain the worst aspects of the current system by maintaining numerous regulatory distinctions favoring certain classes of carriers and perpetuating anticompetitive legacy inefficiencies and the incentives for arbitrage that have destabilized the current system. Several of the other proposals also would reward inefficiency by increasing universal service support or basing support upon lost intercarrier compensation revenues, rather than upon the efficient cost

⁸⁹ See *Alenco*, 201 F.3d at 620 (the burden of excessive universal service fees "can itself violate ... the Act" by "causing rates unnecessarily to rise, thereby pricing some consumers out of the market."); *USF Order*, 12 FCC Rcd at 8900.

of ensuring affordable service to high-cost areas. These other proposals also would force certain categories of carriers and their customers to bear disproportionate costs and obligations.

A. Other Plans Do Not Foster A Competitive Environment That Provides Incentives For Efficiency And Innovation.

1. Most Of The Plans Do Nothing To Make Inter-carrier Compensation More Efficient.

Lasting inter-carrier compensation and universal service reform cannot succeed unless the Commission adopts a regime that provides incentives for efficiency and innovation. With the notable exceptions of the ICF Plan and the Western Wireless Proposal, other plans in the record allow carriers to continue to offload significant network costs onto their competitors through inter-carrier charges. The proposals that attempt to preserve this aspect of the legacy system forfeit one of the most effective tools to make carriers more efficient.

Some of the other proposals, particularly the ARIC FACTS Solution, oppose the elimination of call origination and termination charges, arguing, *inter alia*, that RLECs will be required to raise end user rates to make up for the lost inter-carrier revenue.⁹⁰ Even the ICF Plan, which transitions in large part to a bill-and-keep system, permits RLECs, but not other carriers, to continue assessing charges for terminating transport based upon non-market-based rates after the transition, in order to “*ensure[] that rural carriers will have the option of maintaining a distinct revenue stream.*”⁹¹

Inter-carrier compensation, however, was never intended to guarantee an ILEC “revenue stream” or to preserve artificially low local rates for any given industry segment. The

⁹⁰ ARIC FACTS Solution at 14-22; NARUC Proposal, App. C at 3-4; NASUCA Principles at 1; EPG Plan at 11-14; CBICC Proposal, App. A.

⁹¹ ICF Brief at 6-7 (emphasis added). *See also* ICF Plan at 31, 37.

continuation of access and other intercarrier charges in order to subsidize local rates for certain carriers will also continue a discriminatory, inequitable, anticompetitive and inefficient intercarrier compensation system that harms consumers. Proposals such as the EPG Plan and the ARIC FACTS Solution also continue to base intercarrier compensation charges upon embedded costs and are particularly regressive because they would maintain all of the implicit subsidies and inefficiencies of the current system.⁹² The “proper” level of carrier revenue will flow from maximizing consumer welfare through an efficient intercarrier compensation and interconnection regime.⁹³

Although the retention of call origination or termination charges at any level cannot encourage efficiency as effectively as the system proposed by CTIA, the establishment of TELRIC intercarrier compensation, transport and transit rates under the CBICC Proposal and the use of forward-looking costs for most intercarrier compensation charges under the NARUC Proposal at least are steps in the right direction.⁹⁴ By contrast, proposals such as the EPG Plan and the ARIC FACTS Solution, which continue to base intercarrier compensation charges upon embedded costs, would maintain the implicit subsidies and inefficiencies of the current regime.⁹⁵

⁹² EPG Plan at 21; ARIC FACTS Solution at 39.

⁹³ See Jay M. Atkinson and Christopher C. Barnekov, Federal Communications Commission OPP Working Paper 34, *A Competitively Neutral Approach to Network Interconnection*, ¶¶ 5-15, 74-90 (Dec. 2000) available at http://www.fcc.gov/Bureaus/OPP/working_papers/oppwp34.pdf (“OPP 34”) (bill-and-keep enhances efficiency, which increases total output).

⁹⁴ CBICC Proposal at 1-2 (proposing TELRIC rates for local switching, transport and termination); NARUC Proposal, App. C at 2 (advocating rates based upon forward-looking rather than embedded costs).

⁹⁵ EPG Plan at 21 (proposing that unified intercarrier compensation rate be cost-based and established at the level of current interstate access charges using Part 69 cost methodology); ARIC FACTS Solution at 37-43 (rate-of-return carriers’ intercarrier compensation rate would be set on the basis of embedded costs, and price cap carriers’ intercarrier compensation rate would be set at the lower of current price cap or embedded cost rates). See also Frontier UTF Plan at

2. Most Of The Plans Use Universal Service As An Inter-carrier Compensation Revenue Replacement Fund.

Proposals that fail to limit universal service growth or compound the complexity and inefficiency of the current system by creating new support programs that encourage and reward inefficiency cannot achieve the reform goals set forth in the FNPRM (see, *e.g.*, the ICF Plan, the NARUC Proposal, the NASUCA Principles, the EPG Plan, the ARIC FACTS Plan, the CBICC Proposal, the Home/PBT Plan and the Frontier UTF Plan).⁹⁶ Increasing universal service to ensure revenue neutrality or creating comparable funding mechanisms based on embedded costs fails to provide carriers with incentives to compete more efficiently or to stabilize and, ultimately, reduce total universal service support.

The Commission has long acknowledged that:

9-11 (proposing that transport and most termination be wholly deregulated, and thus allowing carriers to price above TELRIC rates).

⁹⁶ ICF Plan at 69-75 (establishing two new support mechanisms – the Inter-carrier Compensation Recovery Mechanism and the Transitional Network Recovery Mechanism to provide ILECs and certain CETCs with additional support); Letter from Richard R. Cameron, counsel to the ICF, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Dec. 14, 2004) (“Cameron Letter”) (estimating that under the ICF Plan the universal service program would increase \$1.126 billion the first year the ICF Plan is implemented and increase \$2.669 billion by the fifth year); NARUC Proposal, App. C at 8 (proposing a Rural Access Charge Transition Fund within the universal service fund to offset reductions in tariffed access charges experienced by rural eligible telecommunications carriers); NASUCA Principles at 1 (allowing for the recovery of additional inter-carrier compensation by rural carriers through increased high-cost funding); EPG Plan at 22 (establishing a federal Access Restructure Charge that would be billed to all carriers based upon telephone numbers); ARIC FACTS Plan at 72-88 (proposing to lift the cap on high-cost universal service loop support and to recover inter-carrier compensation revenue shortfalls through a State Equalization Fund); CBICC Proposal at 2 (providing that any loss of inter-carrier compensation revenue will be offset by a capped increase in an end user charge and universal service support); Home/PBT Plan at 15-17 (creating a high-cost connection fund for the to recover lost inter-carrier compensation revenue); Frontier UTF Plan at 16-19 (creating non-rural Inter-carrier Compensation Transitional Replacement mechanism and rural Carrier of Last Resort Network Support fund).

The use of embedded cost would discourage prudent investment planning because carriers could receive support for inefficient as well as efficient investments.... [T]he use of embedded cost to calculate universal service support would lead to subsidization of inefficient carriers at the expense of efficient carriers and could create disincentives for carriers to operate efficiently.”⁹⁷

Shifting intercarrier compensation support from one inefficient compensation mechanism to another, as most of the plans in the record propose, simply exacerbates the existing problems with universal service and does not provide effective and equitable intercarrier compensation reform.

B. Most Of The Other Proposals Retain Archaic, Non-Cost-Based Distinctions.

Most of the other proposals in the record fail to address the irrational distinctions underlying the existing intercarrier compensation and universal service regimes. By maintaining disparate charges for the origination or termination of calls, based on jurisdictional or other non-cost factors, those proposals would retain the discriminatory, inequitable and inefficient tariffed access charge system, with no diminution of transaction costs, resulting in continued harm to consumers and increased burdens on universal service support. Accordingly, consumers ultimately will pay more for these services than they would pay under a more efficient system.

Of the other proposals, only the Western Wireless Plan advocates a unified efficient compensation mechanism.⁹⁸ Although the ICF Plan should be applauded for largely embracing the benefits of eliminating call origination and termination charges, it maintains numerous

⁹⁷ See, e.g., *USF Order*, 12 FCC Rcd at 8901 (“Universal Service First Report and Order”); *Price Cap Order*, 10 FCC Rcd at 8973 (Rate-of-return regulation “provides few incentives for carriers to become more innovative and efficient, and encourages cost-shifting by carriers that participate in both competitive and noncompetitive markets.”).

⁹⁸ Western Wireless Plan at 2-3 (advocating a bill-and-keep system for most carriers, with a six-year transition to bill-and-keep for smallest rural ILECs); see also Western Wireless PowerPoint at 13 (same).

arbitrary regulatory distinctions, such as the distinctions between rural and non-rural and between rate-of-return and price-cap ILECs, that are unrelated to cost. The ICF also maintains certain intercarrier compensation mechanisms that favor ILECs.⁹⁹

Several of the other plans submitted – such as the EPG Plan, the NARUC Proposal (assuming that the states opt into the system), the CBICC Proposal and the ARIC FACTS Solution – do establish a unified intercarrier compensation system that eliminates artificial distinctions between interstate and intrastate calls and between local and toll calls.¹⁰⁰ Although these proposals enhance efficiency to some degree, they continue to base their unified rates upon embedded (rather than forward-looking) costs and thus largely negate the benefits of creating unified rates. In addition, the NARUC Proposal and the ICF Plan still maintain some of the arbitrary distinctions of the past by retaining differential termination charges for different sizes or categories of carriers.¹⁰¹ These provisions do not go far enough to accomplish needed reform and will simply maintain the inefficiencies and arbitrage incentives that have destabilized the current system.

Although some of the other proposals submitted claim to encourage parties to negotiate voluntary interconnection agreements, the proposed default rules in those proposals would not provide both parties with sufficient incentives to negotiate mutually beneficial commercial agreements. For example, the NARUC Proposal provides for continued intercarrier termination

⁹⁹ ICF Plan at 31.

¹⁰⁰ EPG Plan at 21-22 (proposing that intrastate access charges be reduced to match interstate access charge levels); NARUC Proposal, App. C at 2 (charges should be the same for interstate and intrastate traffic and for exchange and exchange access interconnection); CBICC Proposal at 1 (proposing unified rate for all traffic, regardless of jurisdiction); and ARIC FACTS Solution at 37 (proposing unified rate for all services and all jurisdictions).

¹⁰¹ NARUC Proposal, App. C at 4 (allowing smaller ILECs to impose higher termination rates); ICF Plan at 36-37 (establishing different termination charges for RLECs).

charges at specified default rates but allows carriers to negotiate other compensation arrangements, including bill-and-keep.¹⁰² Unless a bill-and-keep type of system is the default, however, ILECs will have no incentive to negotiate mutually efficient traffic exchange.

C. Other Proposals Do Not Provide Carriers Enough Flexibility To Recover Their Internal Network Costs From Their Own End User Customers.

In order to give accurate signals for consumption and competitive entry, all telecommunications providers – whether wireless or wireline, incumbent or competitive – should recover their costs from their own end user customers, except to the extent they are performing inter-networking transit or transport functions, in which case they do not have a direct end user relationship, or to the extent universal service is necessary to ensure affordability. Although many of the proposals would allow LECs some additional flexibility to recover most costs from end user customers – for example through minor increases to SLCs – they do not go far enough.¹⁰³ Under these proposals, many ILECs (especially RLECs) would continue to recover a significant and disproportionate amount of their revenues through intercarrier compensation and universal service, which will enable them to avoid competing on an even footing against wireless carriers and other unsupported competitors. Even where wireless carriers receive universal service support, continued discrimination in the receipt of intercarrier compensation revenues would harm the competitive marketplace.

¹⁰² See, e.g., NARUC Proposal at 5.

¹⁰³ See, e.g., ICF Plan at 60-63; NARUC Proposal, App. C at 8-10 (allowing non-rural LECs to increase SLCs by specified amount).

D. Other Proposals Would Retain Illogical Marketplace Distortions.

Intercarrier compensation obligations, interconnection requirements or universal service rules that favor one type of carrier over another distort competition, and the Commission is placed in the untenable position of choosing competitive winners and losers in the marketplace. The resulting distortions deprive consumers of choices and needlessly result in higher costs to consumers (often for less service).

The default interconnection proposals in some of the other plans submitted in this proceeding would discriminate against wireless carriers by forcing them to bear disproportionate interconnection costs as compared to LECs. For example, the ICF Plan maintains differential treatment between classes of carriers by imposing responsibility for ILEC/CMRS internetwork transport in *both* directions on the CMRS carrier.¹⁰⁴ This treatment is both discriminatory and monopoly-reinforcing, unnecessarily adding costs and skewing the competitive market by forcing wireless carriers into inefficient, outmoded forms of interconnection and to absorb a disproportionate amount of internetworking costs.

Similarly, as the Commission previously acknowledged, universal service support should “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”¹⁰⁵ If universal service support favors one type of carrier, or one type of technology, over another, consumers in rural or high-cost areas may be precluded from receiving competitive services at affordable rates, handicapping competition in universal service supported areas. The new RLEC support funds, such as those proposed by the

¹⁰⁴ ICF Plan at 10; *see also* NARUC Proposal, App. C at 13 (endorsing mechanism set forth in ICF Plan).

¹⁰⁵ *USF Order*, 12 FCC Rcd at 8801; *see also Alenco*, 201 F.3d at 616.

ICF Plan and the EPG Plan that exclude wireless CETCs competing directly with the RLECs, epitomize the anticompetitive approach that results from focusing on carrier, rather than consumer, interests.¹⁰⁶ This inequitable treatment would hinder the development of intermodal competition to the detriment of consumers.

E. Most Plans Do Little To Improve The Efficiency Of The Universal Service Mechanisms.

Under Section 254(b) of the Act, the beneficiaries of universal service are *consumers*, not the companies that serve those consumers.¹⁰⁷ The universal service reforms embodied in the CTIA Proposal would ensure that high-cost support is no higher than is necessary and that it declines over time as efficiencies increase. Like the CTIA Proposal, Western Wireless proposes to base the amount of universal service support received by carriers on the forward-looking cost of serving consumers in high-cost areas using the most efficient technology available.¹⁰⁸ The Western Wireless Plan encourages all carriers to operate at their most efficient level, which will ultimately promote competition, decrease reliance on the universal service, and lower consumers' costs.

Other proposals base the amount of universal service support on lost intercarrier compensation revenue, rather than the efficient costs of providing service in high-cost areas.¹⁰⁹ It would undermine the universal service program to place new demands on it without

¹⁰⁶ ICF Plan at 73-74 (transitional support mechanisms would not be available to CETCs that have not lost revenue due to implementation of the reform plan, “*e.g.*, some CMRS providers”); EPG Plan at 23 (support funding should not be portable, especially not to wireless carriers).

¹⁰⁷ 47 U.S.C. § 254(b).

¹⁰⁸ Western Wireless Plan at 3-4 (Nov. 18, 2004).

¹⁰⁹ See, *e.g.*, ICF Plan at 69-75, NARUC Proposal, App. C at 10, ARIC FACTS Plan at 72-88; CBICC Proposal at 2.

considering the long-term implications. For example, under the ICF Plan, universal service support would increase \$2.669 *billion* by the fifth year of the Plan's implementation.¹¹⁰ Based upon this figure, the universal service quarterly contribution factor in that fifth year would jump to an unsustainable level of at least 15.6 percent.¹¹¹ One of the other proposals, the Frontier UTF Plan, acknowledges that with its new proposed universal service mechanisms, "the total initial USF and intercarrier replacement funding could be expected to rise from the current \$3.5B to a best case of \$5B and a worst case of \$7B."¹¹² As explained above, increases in universal support of this order of magnitude are entirely unnecessary and will actually be harmful to all consumers, as billions of dollars in universal service fees are siphoned from consumers to subsidize increasingly inefficient and irrelevant networks.

¹¹⁰ Cameron Letter.

¹¹¹ The estimated quarterly contribution factor under the ICF Plan was calculated based upon the formulas the Commission used to determine the contribution factor for the second quarter of 2005. See FCC Public Notice, *Proposed Second Quarter 2005 Universal Service Contribution Factor*, CC Docket No. 96-45, DA No. 05-648 (rel. Mar. 10, 2005). The estimated 15.6 percent is likely underestimated because, as noted below, our calculation used data from the second quarter of 2005. Thus, the estimated contribution factor does not take into consideration any increases in administrative expenses or other demands on the universal service program (*e.g.*, increased E-rate Program demand), although it is likely that they also would increase (possibly substantially) within the next five years.

In the calculations used here, the projected universal service fund demand and administrative expenses is the sum of the second quarter 2005 estimate and one-fourth of ICF's proposed \$2.669 billion increase (\$1.806 billion + \$667 million). It is assumed for simplicity that the projected collected interstate and international end user telecommunications revenue is \$18.5 billion because the projected collected revenue for the past two years typically has been between \$18 and \$19 billion. The adjusted contribution base was obtained by subtracting the projected universal service fund demand from the projected collected revenue, then multiplying that amount by 0.99 (($\$18.5 \text{ billion} - \2.4737 billion) * 0.99 = \$15.866 billion). The contribution factor was obtained by dividing the projected universal service fund demand by the adjusted contribution base ($\$2.4737 \text{ billion} / \$15.866 \text{ billion} = 0.1559$).

¹¹² Frontier UTF Plan at 15.

As discussed above, approximately three-quarters of high-cost universal service support currently is based on incumbent LEC embedded costs.¹¹³ Unfortunately, many proposals would increase that percentage by further increasing all-you-can-eat embedded cost support. Before shifting massive amounts of intercarrier compensation into an overburdened universal service fund that already encourages and rewards inefficiency, the Commission should eliminate the inefficiencies of the current system and closely examine whether the support, as intended, ensures that *consumers* have access to high-quality, affordable services. Using universal service as an access revenue replacement fund simply continues to shackle consumers with legacy inefficiencies and fails to provide incentives to stabilize and ultimately to reduce the overall level of universal service support as competition and innovative new technologies deliver more affordable rates to consumers in high-cost areas.

F. Several Plans Are Too Complex, Making Administration And Enforcement Difficult And Costly.

Other than the Western Wireless Plan and the ICF Plan,¹¹⁴ all of the other proposals submitted in this proceeding would require regulators to set charges for all access services and reciprocal compensation. Although some of these proposals do simplify the current system – because they partially unify rates – they do not go far enough or achieve the simplicity of CTIA’s proposed intercarrier compensation system.¹¹⁵ For example, although the ICF Plan

¹¹³ That percentage would be closer to 90 percent if IAS, which is tied to ILEC price caps derived from embedded costs, were included.

¹¹⁴ Western Wireless Plan at 1 (advocating bill-and-keep in lieu of establishing per-minute transport and termination rates); ICF Plan at 1-3 (proposing transition to bill-and-keep, rather than an established termination rate, for termination of most traffic).

¹¹⁵ EPG Plan at 32 (establishing a uniform rate and transitioning dedicated transport charges from usage-based to flat-rated port and link fee system); CBICC Proposal at 1 (establishing uniform rate); ARIC FACTS Solution at 37, 42 (establishing uniform rate); Home/PBT Plan at

ultimately imposes, in most cases, an efficient compensation mechanism that avoids the setting of specific intercarrier compensation rate levels, the ICF Plan proposes unnecessarily complex and asymmetrical interconnection requirements that favor certain carrier categories and disfavor others, particularly wireless carriers.¹¹⁶

In contrast to CTIA's simplifying proposal to replace the current high-cost universal service system with a single fund, the other proposals submitted in this proceeding would compound, rather than reduce, the complexity of the current high-cost program by adding new funding components that must be administered along with the existing universal service regime.¹¹⁷ The creation of new support funds would be a significant step back in effective universal service reform, thus compounding the anticompetitive inefficiencies that plague the intercarrier compensation and universal service regimes today.

IV. CONCLUSION

The Commission should carefully weigh the various proposals in the record against its stated goals and CTIA's reform principles in order to implement the best possible intercarrier compensation and universal service reforms as soon as possible. The CTIA METE Proposal would result in a more pro-competitive, pro-consumer intercarrier compensation and universal service framework than the other proposals submitted in this proceeding. Any new system that does not maximize efficiencies and encourage innovation will perpetuate the archaic distinctions

13 (replacing usage-based intercarrier compensation charges with connection-based system); Frontier UTF Plan at 7-9 (establishing new default price for port interfaces, and requiring the FCC to review and revise the default rate every four years).

¹¹⁶ See ICF Plan at 4-31.

¹¹⁷ See, e.g., *id.* at 69-75 (introducing two new support funds).

that hinder competition, generate carrier arbitrage, reduce consumer choice and increase consumer costs.

Respectfully submitted,

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